

BINGHAM, DANA & GOULD

150 FEDERAL STREET  
BOSTON, MASSACHUSETTS 02110-1726

TEL: 617.951.8000  
FAX: 617.951.8736

0100669051

19103-A

June 27, 1995

BY MESSENGER

Interstate Commerce Commission  
Room 2303  
12th Street & Constitution Avenue, N.W.  
Washington, D.C. 20423

Attention: Ms. Mildred Lee

No. 19103

Ladies and Gentlemen:

Enclosed for recording with the Commission pursuant to Section 11303 of Title 49 of the U.S. Code are two original fully executed, notarized versions of the following document:

The document is an Assignment and Assumption Agreement, a secondary document dated as of June 26, 1995, between Seller and Purchaser, covering Seller's sale, transfer and conveyance, and Purchaser's assumption, of all of Seller's right, title and ownership interest in and to certain railcars, and of all Seller's interest and obligations under certain lease documents.

The names and addresses of the parties to the Assignment and Assumption Agreement are as follows: as to Seller: Railcar, Ltd., whose chief executive office is located at Suite 315, 1819 Peachtree Road, N.E., Atlanta, Georgia 30309-1847; as to Purchaser: BancBoston Leasing Inc., whose head office is located at 100 Federal Street, Boston, Massachusetts 02110.

Included in the property covered by the aforesaid Assignment and Assumption Agreement are railroad cars intended for use related to interstate commerce.

A short summary of the document to appear in the index is as follows:

1. "An Assignment and Assumption Agreement, dated as of June 26, 1995, between Railcar, Ltd., as Seller, and BancBoston Leasing Inc.,

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Counterparts - Eric Richards

BINGHAM, DANA & GOULD

Interstate Commerce Commission  
June 27, 1995  
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as Purchaser, covering Seller's sale, transfer and conveyance, and Purchaser's assumption, of all of Seller's right, title and ownership interest in and to certain railcars as described in Schedule 2 of the Assignment and Assumption Agreement, and of all Seller's interest and obligations under certain lease documents described in Schedule 1 of the Assignment and Assumption Agreement."

Also enclosed is a check in the amount of \$21.00, payable to the Interstate Commerce Commission, to cover the recording fee prescribed by the Commission in its rules and regulations.

Please acknowledge receipt of the enclosed documents by stamping and returning to our messenger the enclosed copy of this letter together with the Assignment and Assumption Agreement as filed.

If you have any questions with respect to the enclosed documents, please call me.

Sincerely,



Martin J. Pasqualini

Enclosures

cc: Marc A. Reardon, Esq.



Interstate Commerce Commission  
Washington, D.C. 20423-0001

6/27/95

Office Of The Secretary

Martin J. Pasqualini  
Bingham, Dana & Gould  
150 Federal Street  
Boston, Massachusetts 02110-1726

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6/27/95 at 11:55AM , and assigned recordation number(s). 19103-A.

Sincerely yours,

Vernon A. Williams  
Secretary

Enclosure(s)

(0100669051)

\$ 21.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

19/03-A

## ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement"), dated as of June 26, 1995, between RAILCAR, LTD., a Georgia corporation ("Seller") and BANCOSTON LEASING INC., a Massachusetts corporation ("Purchaser"). Unless otherwise defined herein, all capitalized terms shall have the meanings assigned thereto in Article 1 of the Purchase Agreement (as defined below).

### WITNESSETH:

WHEREAS, Seller is a party to a certain Lease Agreement, dated as of September 12, 1994 between Seller, as Lessor, and CSX Transportation, Inc., a Virginia corporation, as Lessee.

WHEREAS, Seller and Purchaser are parties to a certain Purchase Agreement dated as of June 26, 1995 (the "Purchase Agreement");

WHEREAS, the Purchase Agreement provides, among other things, for the execution and delivery of an assignment and assumption agreement substantially in the form hereof to effect the sale of all of Seller's right, title and ownership interest in and to the Cars, as such are more particularly described on Schedule 2 hereto, and the assumption of Seller's obligations under the Lease Documents, as such are more particularly described on Schedule 1 hereto;

WHEREAS, Seller desires to sell transfer and convey to Purchaser, and Purchaser desires to purchase and assume from Seller, (i) all of Seller's right, title and ownership interest in and to the Cars, and (ii) all of Seller's interest and obligations under the Lease and other Lease Documents on the terms and conditions, and subject to the limitations and exclusions, set forth herein and in the Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### SECTION 1. Sale and Assignment.

(a) Seller does hereby grant, bargain, assign, transfer, sell, deliver and convey unto Purchaser, its successors and assigns, to have and to hold forever, all of Seller's rights, title and interest in and to each of the following:

(i) Seller's ownership interest in the Cars; and

(ii) Seller's interest in the Lease Documents.

(b) EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE PURCHASE AGREEMENT, ANY OTHER SALE DOCUMENT OR ANY OTHER LEASE DOCUMENT, THE SALE OF THE LEASE PROPERTY IS MADE "AS IS, WHERE IS," AND NEITHER SELLER NOR ANY OF ITS AFFILIATES HAVE MADE OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO (i) THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY, QUALITY OF MATERIAL OR WORKMANSHIP, FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, MAINTENANCE OR MARKETABILITY OF THE LEASE PROPERTY OR AGAINST INFRINGEMENT OF ANY PATENT OR COPYRIGHT OR THE LIKE OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED WITH RESPECT TO THE LEASE PROPERTY (ii) THE CREDITWORTHINESS OF THE LESSEE, (iii) THE ADEQUACY OF ANY INSURANCE COVERAGE APPLICABLE TO THE LEASE PROPERTY OR (iv) THE COLLECTIBILITY OF ANY AMOUNT UNDER ANY OPERATIVE DOCUMENT.

#### SECTION 2. Assumption.

Purchaser hereby accepts the assignment set forth in Section 1 hereof and assumes and undertakes all of the duties and obligations and assumes all of the liabilities of Seller under the Lease Documents arising or accruing before, subject to all limitations described in the Purchase Agreement, on or after the date hereof; and hereby confirms that it shall be deemed a party to the Lease Documents to which Seller is a party and shall be bound by all of the terms of each such Lease Document.

#### SECTION 3. Release of Seller.

Upon the effectiveness of this Agreement, Seller shall be relieved and held harmless by Purchaser against all of its liabilities under the Lease Documents to which it is a party or by which it is bound and any other contracts, agreements, documents and instruments assigned by Seller and assumed by Purchaser hereunder.

#### SECTION 4. Representations and Warranties.

Purchaser hereby confirms the representations and warranties made by Purchaser in the Purchase Agreement.

SECTION 5. Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

SECTION 6. Governing Law.

THIS AGREEMENT, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE COMMONWEALTH OF MASSACHUSETTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE, WITHOUT GIVING EFFECT TO PRINCIPLES RELATING TO CONFLICTS OF LAW.

SECTION 7. Counterparts: Effective Date.

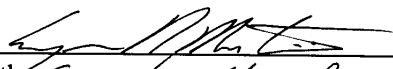
This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. This Agreement shall become effective as of the later of the dates set forth below under the signatures of the officers of the parties hereto on the execution page hereof.

SECTION 8. NO CONSEQUENTIAL DAMAGES.

IN NO EVENT AND UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE TO PURCHASER FOR ANY SPECIAL, COLLATERAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE OR KIND WHATSOEVER IN CONNECTION WITH THE CARS, THE LEASE DOCUMENTS, THIS AGREEMENT OR ANY BREACH OF THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF WHETHER BASED IN TORT OR IN CONTRACT.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year set forth below under the signatures of their respective officers.

RAILCAR, LTD.,  
as Seller

By   
Title: Executive Vice President

Date: 6-26-95

BANCBOSTON LEASING INC.,  
as Purchaser

By \_\_\_\_\_

Date: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year set forth below under the signatures of their respective officers.

RAILCAR, LTD.,  
as Seller

By \_\_\_\_\_  
Title:

Date: \_\_\_\_\_

BANCOSTON LEASING INC.,  
as Purchaser

By Will L. Dan

Date: 6-19-95



STATE OF GEORGIA                    )  
  ) ss.  
COUNTY OF Fulton            )

On this 26th day of June, before me Jay F. Warden Notary Public,  
personally appeared Eugene N. Martin, personally known to me to be the  
person whose name is subscribed to the within instrument and acknowledged to me that  
he executed the same in his authorized capacity, and that by his signature on the  
instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

WITNESS my hand and official seal.

Jay F. Warden  
Notary Public

Notary Public, Coweta County, Georgia  
My Commission Expires March 30 1999

STATE OF MASSACHUSETTS        )  
  ) ss.  
COUNTY OF BOSTON                )

On this \_\_\_\_ day of June, before me \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, personally known to me to be the  
person whose name is subscribed to the within instrument and acknowledged to me that  
he executed the same in his authorized capacity, and that by his signature on the  
instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF GEORGIA                    )  
  ) ss.  
COUNTY OF                         )

On this \_\_\_\_ day of June, before me \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, personally known to me to be the  
person whose name is subscribed to the within instrument and acknowledged to me that  
he executed the same in his authorized capacity, and that by his signature on the  
instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

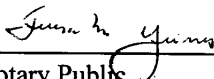
WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF MASSACHUSETTS                    )  
  ) ss.  
COUNTY OF ~~BOSTON~~ SUFFOLK                    )

On this 19<sup>TH</sup> day of June, before me <sup>1995</sup> Teresa M. Grimes, Notary Public,  
personally appeared William L. Downes, personally known to me to be the  
person whose name is subscribed to the within instrument and acknowledged to me that  
he executed the same in his authorized capacity, and that by his signature on the  
instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

WITNESS my hand and official seal.

  
Notary Public  
**Teresa M. Grimes**  
Notary Public  
My Commission Expires January 30, 1996